

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MICHAEL SCULLEN,)	
)	
Plaintiff,)	
v.)	Civil Action No. 24-522
)	
PENNSYLVANIA DEPARTMENT OF)	
CORRECTIONS, et. al.,)	
Defendants.)	

MEMORANDUM ORDER

This case has been referred to United States Magistrate Judge Christopher B. Brown for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72 of the Local Rules for Magistrate Judges. On May 13, 2025, the Magistrate Judge issued a Report and Recommendation, ECF No. 44, recommending that the Corrections Defendants' Partial Motion to Dismiss be granted in part and denied in part, and that Defendant Saavedra's Motion to Dismiss be denied, without prejudice. The parties were informed that objections to the Report and Recommendation were due by May 27, 2025, for the electronically registered Defendants, and by May 30, 2025, for the non-electronically registered Plaintiff. *See* 28 U.S.C. § 636(b)(1)(B) and (C), and Local Rule of Court 72.D.2. No Objections have been filed. After de novo review of the pleadings and the documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 16th day of May 2025, it is ORDERED that the Report and Recommendation, ECF No. 44, filed on May 13, 2025, by Magistrate Judge Brown, is adopted as the Opinion of the Court.

IT IS FURTHER ORDERED as follows:

- A. The Corrections Defendants' Partial Motion to Dismiss, ECF No. 21, is GRANTED as to Defendants Wingard, Oppman, and Hawkinberry. Said Defendants are dismissed without prejudice.
- B. As to amendment, Mr. Scullen is granted 21 days within which to seek leave, from the Magistrate Judge, to file an amended complaint that provides adequate facts to support his deliberate indifference claims against Defendant Wingard and/or Defendant Oppman and/or Defendant Hawkinberry.
- C. The Corrections Defendants' Partial Motion to Dismiss, ECF No. 21, is DENIED as to Defendant Trempus.
- D. Defendant Peter Saavedra's Motion to Dismiss for failure to exhaust administrative remedies, ECF No. 31, is DENIED, without prejudice. Defendant Saavedra may reassert the exhaustion argument, so long as it is properly supported.

This matter is returned to the Magistrate Judge for further proceedings.

s/Marilyn J. Horan
Marilyn J. Horan
United States District Court Judge

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